

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

Elizabeth Allen,)	
)	
Plaintiff,)	
)	Case No. 15-897
v.)	
)	Judge
Midland Funding, LLC and)	Magistrate Judge
Midland Credit Management, LLC,)	
)	
Defendants.)	

NOTICE OF REMOVAL

Defendants Midland Funding, LLC (“Midland”) and Midland Credit Management, Inc. (“MCM”) (collectively “Defendants”) by and through their attorneys, Theodore Seitz (*pro hac vice* motion forthcoming) and Rosa Tumialán of Dykema Gossett, PLLC, hereby petition this Court under 28 U.S.C. §§ 1331, 1332(a), 1441(a) and (b) and 1446 to remove the above captioned matter to this Court. In support of this petition, Defendants state as follows:

Introduction

1. Plaintiff Elizabeth Allen (“Allen”) filed a complaint arising out of Defendants’ alleged attempts to collect on a defaulted Credit One Bank account belonging to Allen. Allen seeks relief under two federal statutes. A copy of the summons and complaint filed by Allen on or about April 2, 2015, is attached as **Exhibit A**.

2. Allen is a citizen of Missouri. Complt. ¶ 6.

3. At the time this action was commenced, and at all times since, including at the time this Notice of Removal is filed, Midland was and is a limited liability company. Midland’s sole member is Encore Capital Group, Inc., which is a Delaware corporation with its principal place of business in California.

4. At the time this action was commenced, and at all times since, including at the time this Notice of Removal is filed, MCM was and is a Kansas corporation with its principal place of business in San Diego, California. Compl. ¶ 8.

5. Allen seeks to hold Defendants liable for alleged violations of the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, *et seq.*, and the Federal Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692, *et seq.*, predicated on the Defendants’ purported acts and conduct. *See generally* Compl.

Jurisdiction

6. This Court has original jurisdiction over this matter because it arises under the Constitution, treaties or laws of the United States, specifically, the TCPA and FDCPA. 28 U.S.C. § 1331.

7. This Court also has original jurisdiction over this matter under 28 U.S.C. § 1332(a)(1) because Allen is a citizen of Missouri, Midland is a citizen of Delaware and California, and MCM is a citizen of Kansas and California. Defendants have a good faith belief that the amount in controversy in this action may exceed the sum or value of \$75,000, exclusive of interest and costs.

8. The TCPA awards statutory damages in the amount of \$500 per violation. Plaintiff’s complaint also seeks actual damages which could exceed \$75,000. Compl. at p. 8.

9. The FDCPA awards statutory damages in the amount of \$1,000 as well as actual damages and attorney’s fees. 15 U.S.C. § 1692k. Plaintiff’s complaint specifically seeks statutory damages, as well as actual damages which could exceed \$75,000. *See* Compl. at p. 8.

Venue

10. This case is removable to this Court under 28 U.S.C. § 1441(a) (A civil action “of which the district courts of the United States have original jurisdiction, may be removed . . . to

the district court of the United States for the district and division embracing the place where such action is pending.”).

11. Venue is proper in this District because the complaint was originally filed in the Circuit Court of the City of St. Louis, Missouri, 22nd Judicial Circuit.

Timing of Removal

12. Plaintiff’s complaint was filed on or about April 2, 2015. Defendants were served with the complaint on May 18, 2015, 2015. Defendants file this Notice within thirty days of receipt of the complaint in compliance with § 1446(b).

Other Requirements

13. A copy of this Notice was filed contemporaneously with the Clerk of the Circuit Court of the City of St. Louis, Missouri as required by § 1446(d) and Local Rule 81-2.03.

14. Defendants also provided written notice of this removal to counsel for plaintiff and filed a copy of this Notice of Removal with the Clerk of the Circuit Court of the City of St. Louis, Missouri. *See* Proofs of Service, which are filed at subsequent separate docket entries.

15. All documents filed in the Circuit Court of the City of St. Louis to date are filed concurrently herewith. *See* **Exhibit A**.

WHEREFORE, Defendants Midland Funding, LLC and Midland Credit Management, Inc. respectfully request that this case be removed, without waiver of procedural or substantive defenses, from the Circuit Court of the City of St. Louis, Missouri to this Court for all purposes.

June 8, 2015

Respectfully submitted,

By: s/ Rosa M. Tumialán

Attorney for Defendants Midland
Funding, LLC and Midland Credit
Management, Inc.

Theodore Seitz, *pro hac vice application*
forthcoming

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CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2015, I electronically filed the foregoing **Notice of Removal** using the CM/ECF system. In addition, I served the foregoing **Notice of Removal** via U.S. Mail on the following:

Dominic M. Pontello
5988 Mid Rivers Mall Dr., Suite 114
St. Charles, Missouri 63304
636-541-7673

s/ Rosa M. Tumialán